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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/827,266	04/05/2001	James G. Skakoon	5074I-000005/US/01	4355
27572 7590 05/27/2009 HARNESS, DICKEY & PIERCE, P.L.C. P.O. BOX 828 BLOOMFIELD HILLS, MI 48303				
EXAMINER LAURITZEN, AMANDA L				
ART UNIT		PAPER NUMBER		
3737				
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

Application No.

09/827,266

Applicant(s)

SKAKOON ET AL.

Examiner

A. Lauritzen

Art Unit

3737

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 27 March 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1, 2, 4-8, 10-12, 17-21, 23, 24, 27, 28 and 33-48 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.

- 6) ☒ Claim(s) 1, 2, 4-8, 10-12, 17-21, 23, 24, 27, 28 and 33-48 is/are rejected.

- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.

- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 15 Feb 2008, 19 May 2008, 6 June 2008, 6 June 2008, 20 October 2008, 2 April 2009
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date: \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_



## **DETAILED ACTION**

### ***Response to Arguments***

Applicant's arguments have been fully considered with respect to rejection of claims 1, 2, 4-8, 10-12, 17-21, 34, 24, 27, 33-38 and 39-46 under 25 U.S.C. 103(a) in view of Taylor and Truweit and are persuasive; however, upon further consideration, new grounds of rejection are presented in view of Melkent et al. (2003/0208122) and Sullivan, III et al. (US 6,238,402).

Rejection of claims 1, 2, 4-8, 10-12, 33-38 and 46 under the first paragraph of 35 U.S.C. 112 has been withdrawn in view of applicant's remarks.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

1. Claims 1, 2, 4-8, 10-12, 17-21, 23, 24, 27, 28, 33-38 and 39-46 are rejected under 35 U.S.C. 102(e) as being anticipated by Melkent et al. (US 2003/0208122) or, alternatively, as being unpatentable over Melkent et al.

Melkent et al. disclose an introducer device compatible in an MR imaging environment having a pistol-grip housing with a holder assembly capable of receiving an accessory medical device and an associated method for its use, the holder assembly traveling along a range of motion of a guide unit (Figs. 3, 4, 4a). The system of Melkent et al. is capable of positioning and orienting multiple surgical implements in an imaging environment, including magnetic

resonance imaging, as in [0033]. Handle [340] acts as a pistol-type grip, as in [0046]. The holder assembly for the multiple cannulas is shown in Fig. 4. Cannulas are disposed in each of three countersunk holes [375]. The user can manipulate the tool guide along its linear range of motion through the wheel couplings [305] operable by rotation by the user's fingers, [0046]. Directional indicators display the position and orientation of each medical implement, as in [0058]. The guide unit is coupled to the body in that it is placed such that the cannulas or other medical implements can be inserted in proper operation of the device. A plate is disclosed for placement on a patient's body, as in [0062]. A locking mechanism is provided on the device by a friction or compression force, as in [0049]. A frameless locating attachment is provided and shown in Fig. 4b. Tracking markers are provided in the form of LED devices, reflective markers and radiological devices, as in [0037].

2. Claims 1, 2, 4-8, 10-12, 17-21, 23, 24, 27, 28, 33-38 and 39-46 are rejected under 35 U.S.C. 102(e) as being anticipated by Sullivan, III et al. (US 6,238,402) or, alternatively, as being unpatentable over Sullivan, III et al.

Sullivan et al. disclose an introduction system for a primary medical device (in this case, a stent) that is compatible with an MR imaging system and method for its use (col. 3, lines 5-21; also col. 5, lines 49-52). A pull-wire system functions to deploy the medical instrument along its trajectory guide and exists as an MR compatible cable (col. 1, lines 11-19; also Figs. 9 and 11). A trigger stop functions as a locking mechanism (col. 4, lines 40-63). Pivoting cylindrical protrusions 64 function as wheel advancing assembly. An imaging system coupled with a monitor constitutes a means for determining position and orientation of the holder assembly.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Amanda L. Lauritzen whose telephone number is (571)272-4303. The examiner can normally be reached on Monday - Friday, 8:30am - 5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian L. Casler can be reached on (571) 272-4956. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Amanda L. Lauritzen/  
Examiner, Art Unit 3737

/BRIAN CASLER/  
Supervisory Patent Examiner, Art Unit  
3737